REMARKS

In the December 9, 2004 Office Action the Examiner required restriction to one of the following groups under 35 U.S.C. §121:

Group I: Claims 1-93, and 123-191, drawn to tripeptides and tetrapeptides, compositions and kits, and therapeutic methods;

Group II: Claims 94-111, and claims 123-191 (as they depend from claims 94-111), drawn to pentapeptides, compositions and kits, and therapeutic methods;

Group III: Claim 112, and claims 123-191 (as they depend from claim 112), drawn to peptides having from 5 to 11 amino acids with acidic or basic non-terminal amino acids, compositions and kits, and therapeutic methods;

Group IV: Claim 113, and claims 123-191 (as they depend from claim 113), drawn to peptides having from 5 to 11 amino acids with acidic or basic non-terminal amino acids, and aliphatic non-terminal amino acids, compositions and kits, and therapeutic methods;

Group V: Claim 114, and claims 123-191 (as they depend from claim 114), drawn to peptides having from 5 to 11 amino acids with acidic or basic non-terminal amino acids, and aromatic amino acids, compositions and kits, and therapeutic methods;

Group VI: Claim 115, and claims 123-191 (as they depend from claim 115), drawn to peptides having from 6 to 11 amino acids with aromatic non-terminal amino acids, compositions and kits, and therapeutic methods;

Group VII: Claims 116-118, and claims 123-191 (as they depend from claims116-118), drawn to peptides having from about 9 to about 30 amino acids comprising at least one class A amphipathic helix, and one or more aliphatic or aromatic amino acids at the center of the non-polar face of the amphipathic helix, compositions and kits, and therapeutic methods; and

Group VIII: Claims 119-122, and claims 123-191 (as they depend from claims 19-122), drawn to peptides having from about 10 to about 30 amino acids, comprising at least one class A amphipathic helix, and covalently coupled to a biotin, compositions and kits, and therapeutic methods.

In response to this restriction, Applicants elect Group I, claims 1-93, and 123-191.

With election of Group I, the Examiner further required the following election of species:

1) Election of a species from:
   a) Claims 2-26;
   b) Claims 50-71; or
   c) Claims 72-93;

2) Election of an indication recited in claim 131 (Claim 131 did not recite indications. Consequently Applicants understand that the Examiner actually meant claim 130).

In response to the first requirement for an election of species 1, Applicants elect species (b), claims 27-49. In response to the second requirement of an election of species, Applicants elect the indication: atherosclerosis.

With respect to the election of species, the Examiner is reminded that if there is a generic claim, the Examiner is to include "a complete action on the merits of all the claims readable on the elected species" MPEP 809.02(c). In addition, to the extent all species fall within the limitations of a generic claim ultimately determined to be patentable the non-elected species should no longer be deemed to be withdrawn and claims to the additional non-elected species should be considered by the Examiner.

Applicant's further note that the following claims are readable on the elected species: Claims 1, 27-49, and 123-191.

With election of Group I, the Examiner also imposed a sequence restriction requirement. In particular the Examiner alleged that claims 14, 39, 60, 61, 82, and 83 are generic to a plurality of distinct sequences comprising SEQ ID NOS:109-432 and required Applicants to elect a single disclosed sequence.

In response to this sequence election, Applicants elect the sequence of SEQ ID NO:250 having the amino acid sequence Phe-Arg-Glu-Leu which can be protected or unprotected and can comprise D and/or L amino acids.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,

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